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CRIMINAL PROCEDURE

Bonds and Recognizes: Regulate Bail Bond Recovery Agents

CODE SECTIONS:	O.C.G.A. §§ 17-6-30 (amended); -56 to -58 (new)
BILL NUMBER:	HB 80
ACT NUMBER:	321
GEORGIA LAWS:	1999 Ga. Laws 546
SUMMARY:	The Act establishes that the surety limit on criminal bonds can be no higher than twelve percent on bonds in the amount of \$10,000 or less and no higher than fifteen percent on bonds in amounts greater than \$10,000. Additionally, the Act defines "bail recovery agent," establishes prerequisites for those people serving as bail recovery agents, and provides that sheriffs require bondsmen to list all of the bail recovery agents who serve them. Furthermore, the Act establishes minimum notification requirements to sheriffs for bond recovery agents who seek to apprehend or conduct surveillance within the sheriff's jurisdiction and sets forth particular notification and qualification requirements for out-of-state bond recovery agents who enter a Georgia jurisdiction for purposes of apprehension or surveillance. Further, the Act requires that bondsmen issue uniform identification cards to all of their bond recovery agents and that bond recovery agents have in their possession the uniform identification card at all times when acting in the capacity of a bond recovery agent. Finally, the Act establishes criminal penalties for bail recovery agents and bondsmen for violations of the Act and authorizes private rights of action against bond recovery agents who enter the wrong

property, damage the property, or injure any person therein.

EFFECTIVE DATE: July 1, 1999

History

Formerly, bail bond recovery agents operated with little or no regulation or structure.¹ In fact, the Georgia Court of Appeals acknowledged that bail bondsmen may break into and enter the home of the defaulting principal and use reasonably necessary force to effect an arrest.² Such loose standards created an environment where bail recovery agents would use any means necessary to apprehend a fugitive.³ Often bail recovery agents would impersonate police officers and exert unauthorized force over their suspects.⁴

Prompted by the growing danger in the bail bond industry, Representative Vernon Jones of the 71st District sponsored this legislation to bring stability and regulation to the industry.⁵ Women from DeKalb County shared with Representative Jones a story of bond recovery agent misconduct.⁶ Representative Jones relayed the story on the House floor.⁷ In DeKalb County, a fourteen-year-old girl was home alone when two bail recovery agents knocked on her door looking for a suspect.⁸ Without opening the door, the girl told the men that she did not know of the man for whom they were looking and no one lived there by the suspect's name.⁹ Then the young girl called one of her family members.¹⁰ The family member bridged the call through to 911 and told the girl to go into her room.¹¹ The girl locked herself in a closet in her mother's bedroom.¹² The bounty hunters broke into the

1. See Telephone Interview with Rep. Kem W. Shipp, House District No. 38 (July 12, 1999) [hereinafter Shipp Interview].

2. See *Bennett v. State*, 169 Ga. App. 85, 86, 311 S.E.2d 513, 515 (1983).

3. See Shipp Interview, *supra* note 1.

4. See *id.*

5. See Telephone Interview with Rep. Vernon Jones, House District No. 71 (Aug. 2, 1999) [hereinafter Jones Interview].

6. See *id.*

7. See *State of Georgia Session Archives* (audio recordings of Feb. 16, 1999, Senate Proceedings) (remarks by Rep. Vernon Jones) <<http://www.ganet.org/services/leg/audio/99archives/>>.

8. See *id.*

9. See *id.*

10. See *id.*

11. See *id.*

12. See *id.*

house and broke into the mother's bedroom.¹³ They pulled the girl out of the closet and started verbally abusing and interrogating her.¹⁴ The bounty hunters displayed two fraudulent sheriff's badges.¹⁵

Initially, the district attorney said there was nothing he could do because there were no laws regulating bounty hunters.¹⁶ There was a law that punished bail bondsmen who had broken into a residence and caused more than \$400 in damage.¹⁷

Prompted by this situation and others like it, Representative Jones sponsored HB 80 to help control and regulate bail recovery agents in Georgia.¹⁸ Representative Jones worked with Representative Kem W. Shipp of the 38th District, who had previously sponsored a bill designed to regulate the bail bond industry.¹⁹

HB 80

Introduction

Representative Jones introduced the bill on January 13, 1999.²⁰ The House sent the bill to the House Special Judiciary Committee.²¹ The Committee favorably reported on the bill as substituted on February 11, 1999.²² The House passed the bill after amending it on the House floor, and subsequently the bill went to the Senate Judiciary Committee, which passed its own substitute.²³ The Senate passed the Judiciary Committee substitute with a floor amendment, and the House concurred with the Senate's amendments and added amendments of its own.²⁴ The bill returned to the Senate where the

13. *See id.*

14. *See id.*

15. *See id.*

16. *See id.*

17. *See id.*

18. *See id.*

19. *See* Shipp Interview, *supra* note 1. Representative Shipp introduced HB 1136 in the 1998 legislative session. *See* HB 1136, as introduced, 1998 Ga. Gen. Assem. HB 1136 was a comprehensive piece of legislation that would have regulated the bail bond industry and provided that bail bondsmen obtain liability insurance. *See id.* Although HB 1136 had little or no opposition, changes delayed the bill and it failed to be introduced to the Senate in time. *See* Shipp Interview, *supra* note 1.

20. *See* State of Georgia Final Composite Status Sheet, May 3, 1999.

21. *See id.*

22. *See id.*

23. *See id.*

24. *See id.*

Senate concurred with the House's Amendments and passed the final version of the bill.²⁵

Consideration by House Special Judiciary Committee

The House Special Judiciary Committee reviewed the bill and added and amended several provisions before voting to favorably return the bill to the full House.²⁶

First, the House Committee limited the meaning of "fugitive" within proposed Code section 17-6-56 to include only those persons who escape from "bail in this state for gratuity, benefit, or compensation" rather than those who escape from "bail or confinement."²⁷ Next the Committee added the requirement that a bail recovery agent be a United States citizen who is twenty-five years of age or older and is qualified to obtain a license pursuant to Code section 16-11-129.²⁸ The Committee made it mandatory, rather than optional, that the county sheriff require any professional bondsperson doing business in that county to register his or her bail recovery agents.²⁹ Furthermore, the Committee eliminated the language which gave the sheriff "discretion [to] disapprove of the use or employment of any bail recovery agent named on such list."³⁰

Pertaining to proposed Code section 17-6-57, the Committee required that the notification that precedes apprehension or surveillance be accomplished by facsimile transmission or telephone unless the apprehension or surveillance is to take place in public.³¹ The Committee established notification and certification requirements for out-of-state bail recovery agents who must show that they qualify under the requirements of their home state.³² The Committee added

25. *See id.*

26. *Compare* HB 80, as introduced, 1999 Ga. Gen. Assem., *with* HB 80 (HCS), 1999 Ga. Gen. Assem.

27. *Compare* HB 80, as introduced, 1999 Ga. Gen. Assem., *with* HB 80 (HCS), 1999 Ga. Gen. Assem.

28. *Compare* HB 80, as introduced, 1999 Ga. Gen. Assem., *with* HB 80 (HCS), 1999 Ga. Gen. Assem.

29. *Compare* HB 80, as introduced, 1999 Ga. Gen. Assem., *with* HB 80 (HCS), 1999 Ga. Gen. Assem.

30. *Compare* HB 80, as introduced, 1999 Ga. Gen. Assem., *with* HB 80 (HCS), 1999 Ga. Gen. Assem.

31. *Compare* HB 80, as introduced, 1999 Ga. Gen. Assem., *with* HB 80 (HCS), 1999 Ga. Gen. Assem.

32. *Compare* HB 80, as introduced, 1999 Ga. Gen. Assem., *with* HB 80 (HCS), 1999 Ga. Gen. Assem.

a proposed Code section 17-6-57(c) that established that each professional bondsperson must issue uniform bail recovery agent identification cards to each bail recovery agent registered by the bondsperson.³³ Code section 17-6-57(c), as proposed, also set forth information that must be included on the card and required bail recovery agents to be in possession of such cards during the performance of their bail recovery activities.³⁴

The Committee added proposed Code section 17-6-58, which created various criminal penalties for bail recovery agents who abuse their authority.³⁵ The Committee added criminal penalties for bail recovery agents who fail to adhere to the bill's registration requirements; for bondspersons who employ bail recovery agents who are not qualified under the Act; and, for bail recovery agents who try to pass themselves off as state or federal agents, employees, or officers.³⁶

From House Special Judiciary Committee to House Floor Amendment

The House passed a floor amendment to the Committee substitute that provided more specific penalties for violations under Code section 17-6-58.³⁷ The House floor amendment created a criminal penalty—imprisonment for not less than one nor more than five years—for bail recovery agents who violate the bill's registration requirements two or more times or who try to pass themselves off as state or federal agents, employees, or officers.³⁸ The House also imposed a criminal penalty—imprisonment for not less than one nor more than five years—upon bondsmen who employ unqualified bail recovery agents.³⁹

33. Compare HB 80, as introduced, 1999 Ga. Gen. Assem., with HB 80 (HCS), 1999 Ga. Gen. Assem.

34. Compare HB 80, as introduced, 1999 Ga. Gen. Assem., with HB 80 (HCS), 1999 Ga. Gen. Assem.

35. Compare HB 80, as introduced, 1999 Ga. Gen. Assem., with HB 80 (HCS), 1999 Ga. Gen. Assem.

36. Compare HB 80, as introduced, 1999 Ga. Gen. Assem., with HB 80 (HCS), 1999 Ga. Gen. Assem.

37. Compare HB 80 (HCS), 1999 Ga. Gen. Assem., with HB 80 (HCSFA), 1999 Ga. Gen. Assem.

38. Compare HB 80 (HCS), 1999 Ga. Gen. Assem., with HB 80 (HCSFA), 1999 Ga. Gen. Assem.

39. Compare HB 80 (HCS), 1999 Ga. Gen. Assem., with HB 80 (HCSFA), 1999 Ga. Gen. Assem.

From House Floor Amendment to Senate Judiciary Committee

The Senate Judiciary Committee added language that appended a fine of not more than \$10,000 to the criminal penalty to be imposed upon bondsmen who employ unqualified bail recovery agents subsequent times.⁴⁰ This fine may be in lieu of or in addition to imprisonment for not less than one nor more than five years.⁴¹ The Committee also added a fine of not more than \$10,000 to the criminal penalty to be imposed upon bail recovery agents who try to impersonate state or federal agents, employees, or officers.⁴² This fine may be in lieu of or in addition to imprisonment for not less than one nor more than five years.⁴³ Additionally, the Senate Judiciary Committee created a private right of action against bail recovery agents who enter the wrong property, cause damage to such property, or cause injury to anyone on such property.⁴⁴

From Senate Judiciary Committee to the Senate Floor Amendment

The Senate passed a floor amendment that would have added a requirement to Code section 17-6-58(d) that bail recovery agents possess general liability insurance coverage in an amount not less than \$500,000.⁴⁵ The Senate's floor amendment would have further required that bail recovery agents possess certificates of such insurance coverage while acting in their capacity as bail recovery agents.⁴⁶ This amendment met with opposition because there was no guaranteed market for such insurance.⁴⁷ One private citizen offered to

40. Compare HB 80 (HCSFA), 1999 Ga. Gen. Assem., with HB 80 (SCS), 1999 Ga. Gen. Assem., and O.C.G.A. § 17-6-58(b) (Supp. 1999).

41. Compare HB 80 (HCSFA), 1999 Ga. Gen. Assem., with HB 80 (SCS), 1999 Ga. Gen. Assem., and O.C.G.A. § 17-6-58(b) (Supp. 1999).

42. Compare HB 80 (HCSFA), 1999 Ga. Gen. Assem., with HB 80 (SCS), 1999 Ga. Gen. Assem., and O.C.G.A. § 17-6-58(c) (Supp. 1999).

43. Compare HB 80 (HCSFA), 1999 Ga. Gen. Assem., with HB 80 (SCS), 1999 Ga. Gen. Assem., and O.C.G.A. § 17-6-58(c) (Supp. 1999).

44. Compare HB 80 (HCSFA), 1999 Ga. Gen. Assem., with HB 80 (SCS), 1999 Ga. Gen. Assem., and O.C.G.A. § 17-6-58(d) (Supp. 1999).

45. Compare HB 80 (SCS), 1999 Ga. Gen. Assem., with HB 80 (SCSFA), 1999 Ga. Gen. Assem.

46. Compare HB 80 (SCS), 1999 Ga. Gen. Assem., with HB 80 (SCSFA), 1999 Ga. Gen. Assem.

47. See Jones Interview, *supra* note 5; see also Telephone Interview with Sen. Clay Land, Senate District No. 16 (Aug. 2, 1999) (stating that he opposed such amendment because for public policy reasons the government should not impose liability insurance except in very specific cases such as automobile insurance).

supply such insurance and lobbied for the requirement, but there were no other suppliers available.⁴⁸ The amendment's language did not become part of the Act.⁴⁹

From Senate Floor Amendment to House Floor Amendment

The House passed a floor amendment to Code section 17-6-30 by setting a ceiling charge on sureties at twelve percent on bonds set in the amount of \$10,000 or less and at fifteen percent on bonds set in amounts in excess of \$10,000.⁵⁰ Additionally, because no assurances existed that anyone would offer bail bondsmen liability insurance,⁵¹ the House floor amendment deleted such a requirement from proposed Code section 17-6-58(d).⁵² That Code section would have required bail recovery agents to possess general liability insurance coverage in an amount not less than \$500,000 and mandated that bail recovery agents possess certificates of such insurance coverage while acting in their capacity as bail recovery agents.⁵³

House and Senate Members came to a mutual understanding and adopted the final version as amended on March 24, 1999⁵⁴ without any significant opposition.⁵⁵ On April 28, 1999, the governor signed the Act, and it became effective on July 1, 1999.⁵⁶

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48. See Jones Interview, *supra* note 5.

49. See O.C.G.A. § 17-6-58(d) (Supp. 1999).

50. Compare HB 80 (SFA), 1999 Ga. Gen. Assem., with HB 80 (HFA), 1999 Ga. Gen. Assem.

51. See Shipp Interview, *supra* note 1.

52. Compare HB 80 (SCSFA), 1999 Ga. Gen. Assem., with O.C.G.A. § 17-6-58(d) (Supp. 1999).

53. Compare HB 80 (SCSFA), 1999 Ga. Gen. Assem., with O.C.G.A. § 17-6-58(d) (Supp. 1999).

54. See State of Georgia Final Composite Status Sheet, May 3, 1999.

55. See Telephone Interview with Sen. Richard J. Price, Senate District No. 28 (Aug. 2, 1999). Senator Price was the only recorded nay vote in the Senate on the final version of the bill. See *id.* Senator Price stated that although there are some difficulties inherent in the industry, the bill was not the proper way to address the defects. See *id.*

56. See State of Georgia Final Composite Status Sheet, May 3, 1999.